IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Criminal Revision No. 256 of 2004
Date of Decision : 20.10.2009.

Satwinder Singh

.....Petitioner

Versus

Sukhbir Singh .....Respondent

CORAM : HON'BLE MR. JUSTICE NAWAB SINGH

Present: Mr. Sarwan Singh, Sr. Advocate with
Mr. N.S. Rapri, Advocate,
for the petitioner.

Mr. S.S. Bhinder, Advocate,
for the respondent.

NAWAB SINGH J.

This revision petition has been filed by the complainant against the judgment dated August 29th, 2003 passed by Additional Sessions Judge, Ambala, whereby, Sukhbir Singh-respondent was acquitted in case bearing First Information Report No. 107 dated May 12th, 2002 under Section 306 of Indian Penal Code Police Station Parao, District Ambala.

2. Jagmohan Singh Jaggi (deceased) was working as a Supervisor in Darshan Academy Kuldeep Nagar, Ambala Cantt. Respondent was the Principal of the said Academy. On May 11th, 2002 Jagmohan Singh committed suicide at Railway Station, Patiala. The reason for that, as stated by his son Satwinder Singh (PW-6) and wife Nirmal Kaur (PW-11) was that the deceased was upset on account of mis-behaviour of respondent and the respondent wanted to implicate the deceased in a false case. The deceased also handed over a note (Exhibit PB) to his wife Nirmal Kaur stating that he received threatening phone calls 3-4 days prior to May 10th, 2002 and he was forced to sign some papers by the respondent but he did not.

3. The question arises as to whether the accused-respondent abetted the offence, which could bring his act under the

mischief of Section 306 IPC, for which he was charged.

4. The sum and substance of the statements of the witnesses referred to above and the note (Exhibit PB) is that the deceased was not having good working relations with the respondent. Deceased was subordinate to the respondent. On account of threatening phone calls and out of fear that respondent may involve the deceased in a criminal case, he committed suicide.

5. The evidence led by the prosecution per se cannot establish offence punishable under Section 306 IPC because it provides for abetment of suicide. Abetment has been defined under section 107 IPC, that is, a person abets the doing of a thing who, firstly, instigates any person to do a thing, or secondly, engages with one or more other person or persons in any conspiracy for the doing of that thing, if the act of illegal omission takes place in pursuance of that conspiracy and in order to the doing of that thing or thirdly, intentionally aids, by any act or illegal omission, the doing of that thing. None of the ingredients of abetment is there even if the evidence adduced by the prosecution is believed in toto.

6. In **Mahendra Singh v. State of M.P., 1995 Supp. (3) SCC 731**, the appellant was charged for an offence under Section 306 I.P.C. basically based upon the dying declaration of the deceased, which read as under :

> "My mother-in-law and husband and sister-in-law (husband's elder brother's wife) harassed me. They beat me and abused me. My husband Mahendra wants to marry a second time. He has illicit connections with my sister-in- law. Because of these reasons and being harassed I want to die by burning."
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> 11. This court, considering the definition of `abetment' under Section 107 I.P.C. and found that the charge and conviction of the appellant for an offence under Section 306 is not sustainable merely on the allegation of harassment to the deceased. This Court further held that neither of the ingredients of the abetment are attracted on the statement of the deceased."

7. In a recent judgment, **Kishori Lal vs. State of M.P. 2007(3) RCR (Criminal) 385,** Hon'ble Supreme Court relying upon **Mahendra Singh's case (supra)** held that merely on the allegation of harassment conviction in terms of Section 306 IPC is not sustainable.

8. Viewed from the circumstances, this Court is of the view that the ingredients of 'Abetment' are totally absent in the instant case for an offence under Section 306 IPC. This being so, there is no infirmity in the impugned judgment on any count which would call for the interference of this Court while exercising its revisional jurisdiction.

9. The revision petition is, therefore, dismissed.

(NAWAB SINGH)
JUDGE

20.10.2009.
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